



Ninety-Seventh Legislature - First Session - 2001
Committee Statement
LB 142

Hearing Date: January 17, 2001

Committee On: Government, Military and Veterans Affairs

Introducers: (Schimek, Aguilar, Brown, Cudaback, Kremer, Quandahl, Wickersham)

Title: Authorize creation of municipal counties

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

7	Yes	Senators Aguilar, Brown, Burling, McDonald, Quandahl, Schimek, Smith
1	No	Senator Vrtiska
0	Present, not voting	
0	Absent	

Proponents:

Senator DiAnna Schimek
Senator Bob Wickersham
Mick Mines
Lynn Rex
Chris Abboud
Robert Doyle
Lormong Lo

Representing:

Introducer
Legislative District 49
League of Nebraska Municipalities
League of Nebraska Municipalities
Omaha Mayor Hal Daub
Sanitary and Improvement Districts
Omaha City Council

Opponents:

Representing:

Neutral:

Don Eikmeier
Marc Kraft
Beth Bazyn Ferrell

Representing:

City of Elkhorn
Omaha City Council
Nebraska Association of County Officials

Summary of purpose and/or changes:

Section 1 LB 142 provides that one or more counties and at least one of the municipalities in each county may create a municipal county to carry out all county services and all municipal services. A municipal county is created by passage of a joint resolution by the counties and municipalities involved placing the issue on the ballot at a primary, general or special election.

The issue can also be put on the ballot by petition of ten percent of the total vote cast for Governor at the last election.

If a joint resolution is passed or registered voters file a petition, it is the duty of the county board and city council or village board to pass a joint resolution creating an interjurisdictional planning commission. The county board and city council or village board of trustees appoint members to the nine (9) member commission, except that the district court of the county may appoint the members of the commission if, when petitioned, the affected governing bodies fail or refuse to make appointments. At least three (3), but not more than six (6) members, shall represent the county, and not more than three (3) members shall be public officials.

The interjurisdictional planning commission prepares a merger plan and holds at least one hearing prior to preparing the plan for merger and one hearing after the plan is prepared. The commission then submits the plan back to the affected governing bodies for approval. When the interjurisdictional planning commission is created by joint resolution, the affected governing bodies must approve the plan before it is submitted for voter approval. If the interjurisdictional planning commission arose following a petition of the people, the affected body may approve the plan; however, if they do not approve it, the plan still proceeds to a vote by the people.

Section 2 The municipal county will have a council of between five (5) to nine (9) members, at least two-thirds of whom will be elected by district. Each council term is elected to a four-year term. If there are at-large members, they will serve two-year terms. There will be an elected executive, who will serve for four years.

Section 3 The municipal county has all the powers and duties of the county which is the largest involved in the new entity and shall have the powers of the largest city involved.

Section 4 A municipal county may adopt ordinances and will supersede those of any other municipality or county within the municipal county.

Section 7 A municipal county may levy up to one dollar per one hundred dollars of taxable value, not including bonded indebtedness, from which it may allocate levy authority to miscellaneous districts of the county and the city.

Section 8 Municipalities within the boundaries of a municipal county but are not consolidated into the municipal county will retain the authority to levy property taxes.

Section 9 The creation of a municipal county must be approved at a primary, general or special election. The ballot issue may be combined with the approval of a local sales tax. The vote shall be tallied separately for:

- All those voting on the question
- Those voting who reside in any county and any municipalities which would be consolidated into the municipal county; **and**
- Those voting who reside in each county but outside any municipality which would be consolidated into the municipal county.

If at least one county and at least one city or village in that county approves and the rural areas of the county approve, the municipal county is formed as to those cities and county. If any one of these groups opposes the merger, the municipal county will not be created.

A municipality within the boundaries of a municipal county, but was not part of the initial merger, may later seek inclusion into the municipal county.

Section 11 A municipal county may also be dissolved. The procedure is similar to the creation of the municipal county. A dissolution planning commission is created upon the occurrence of one of two triggering events: 1) the passage of a resolution by the municipal county council or 2) the filing of a petition signed by registered voters. The dissolution planning commission prepares a plan, holds public hearings and submits the plan back to the municipal county council for approval.

When the dissolution planning commission was created by joint resolution, the municipal county council must approve the plan before it is submitted for voter approval. If the dissolution planning commission arose following a petition of the people, the municipal county council may approve the plan; however, if they do not approve it, the plan still proceeds to a vote by the people.

Section 12 A municipal county may impose a sales and use tax after an election is held and a majority of the voters approve it.

Section 13 The Tax Commissioner shall administer all sales and use taxes and will collect it concurrently and in the same manner as a state tax. If there is any claim of illegal assessment and collection, the taxpayer has the same remedies as those for illegal assessment and collection of a state tax. All relevant provisions of the Nebraska Revenue Act of 1967 will govern the activities pursuant to any sales or use tax imposed by a municipal county.

Section 16 Any municipality that is within the boundaries of a municipal county that is not merged into the municipal county is required to pay the municipal county for services that were previously provided by the county.

Explanation of amendments, if any:

There are several amendments to LB 142.

The first amendment provides that if the interjurisdictional planning commission determines that the creation of a municipal county is not in the public interest, then no plan would be created but a report would be issued with findings. This process is also followed when a municipal county is being dissolved.

The second amendment requires the interjurisdictional planning commission to specify in their plan which form of government will operate the executive functions of the municipal county, i.e. elected executive officer, professional municipal county manager or administrator appointed by the commission. This amendment also requires the interjurisdictional planning commission to specify how any sanitary and improvement districts would operate within the municipal county.

The third amendment requires, at least 90 days prior to submission to the voters, that the interjurisdictional planning commission and the governing body of each county and municipality hold at least one public hearing in each respective jurisdiction. It also requires that information on the merger including tax issues and the cost and quality of services be provided to the residents within the municipal county. This procedure is followed for both the creation and dissolution of a municipal county.

The fourth amendment makes it clear that ordinances of the municipal county do not supercede the ordinances of municipalities which are not consolidated with the municipal county.

The fifth amendment states that a municipality, which is not part of the consolidated municipal county, retains its authority to levy taxes and retains all other powers and duties of a municipality of its size. Also, a municipality which is not part of the municipal county cannot be annexed by the municipal county and such municipality shall not annex for at least four years after the date of creation of the municipal county.

The sixth amendment clarifies that the vote of registered voters in each municipality are considered separately.

The seventh amendment deals with the situation of a municipality wishing to merge with an existing municipal county. The amendment requires, after the municipality votes in favor of a merger, a vote of the council of the municipal county to approve of a merger with a municipality.

The eighth amendment addresses any municipality within the borders of a municipal county that is not merged with the municipal county. The municipality that is not merged into the municipal county will pay for services previously provided by the county and are not ordinarily provided by a municipality. In a situation where the county did not provide law enforcement prior to the merger or if the municipality which has not merged with the municipal county continues its own law enforcement after the merger, the total cost of services budgeted by the municipal county for law enforcement will be the net cost of services that are the express and exclusive duties of the sheriff times the ratio outlined in section 16, subsection (1) of the bill. If the municipal county has deputized the police force of the municipality to perform the duties of the sheriff, there is no amount paid to the municipal county. If there are disputes about how much any municipality that is not merged into the municipal county is to pay for services, these disputes will be heard in the district court of the municipal county.

The ninth amendment requires the receipts from the 3% administrative fee for collecting the sales tax to be deposited into the Municipal Equalization Fund.

Senator DiAnna R. Schimek, Chairperson